

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

JUL 31 2006

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID P. FERGUSON, PETER M. MADDOCKS, and DOUGLAS WESLEY

Application No. 09/679,691

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 10, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On November 16, 2005, the examiner filed a final Office action with the following ground of rejection to be reviewed on appeal:

Claims 1-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Goshey et al., U.S. Patent No. 6,101,555 (referred to hereafter as Goshey).

In the examiner's answer mailed February 27, 2006, the reference to Goshey, 6,473,783 is listed in the examiner's answer on page 2 under the Evidence Relied Upon section. However, in the Grounds of Rejection section of the examiner's answer, the statement of rejection is

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referenced to a different U.S. patent to Goshey, 6,101,555. In addition, the reference to Goshey, 6,473,783 is stated on page 2 of the appeal brief filed January 19, 2006. There is clear confusion as to which reference to Goshey is the correct reference to the statement of rejection. Before further review, the examiner must give a clear indication to the correct reference to Goshey in the statement of rejection under 35 U.S.C. § 102 (e).

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) clarification of the statement of rejection to reference Goshey, 6,101,555 or Goshey, 6,473,783; 2) filing a revised examiner's answer indicating such change in the Evidence Relied Upon section and the Grounds of Rejection section; and 3) for such further action as may be appropriate.

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By:



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